

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 21, 2004

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO THE INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND DIECA
COMMUNICATIONS, INC. D/B/A COVAD
COMMUNICATIONS COMPANY**

**DOCKET NO.
04-00121**

**ORDER APPROVING
SECOND AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Deborah Taylor Tate, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 7, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the second amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and DIECA Communications, Inc. d/b/a Covad Communications Company.

The original interconnection agreement between these parties was filed on October 28, 2003, and was assigned Docket No. 03-00571. It was approved at a regularly scheduled Authority Conference on December 8, 2003. The second amendment was filed on December 15, 2003, under Docket No. 03-00637 and was approved at a regularly scheduled Authority Conference on February 23, 2004. The second amendment, which is the subject of this docket, was filed on April 20, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.

3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.


5) No person or entity has sought to intervene in this docket.

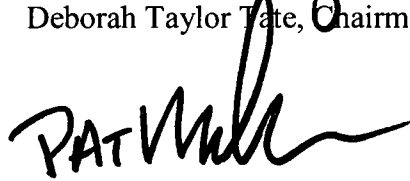
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

¹ See 47 U.S.C. § 252(e)(2)(B)

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the second amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and DIECA Communications, Inc. d/b/a Covad Communications Company is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Chairman


Pat Miller, Director


Sara Kyle, Director